

INDEPENDENT EXPENDITURES IN THE CITY OF SAN DIEGO

MAKING INDEPENDENT EXPENDITURES

The following information is provided as a general guideline *only* to making independent expenditures, particularly in the City of San Diego. **It is not intended to be a comprehensive discussion of independent expenditures or independent expenditure committees.** Applicable San Diego Municipal Code (SDMC) sections are referenced throughout. The SDMC is available through the City Clerk's Office, or online at www.sandiego.gov/city-clerk. You should also become familiar with the applicable provisions of state law.

WHAT ARE INDEPENDENT EXPENDITURES?

In the City of San Diego, an independent expenditure is any expenditure made by any person in connection with a communication (e.g., a newspaper ad, or a mailing) which:

- ◆ expressly supports or opposes the nomination, election, defeat or recall of a clearly identified candidate; or
- ◆ expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified measure; or
- ◆ taken as a whole and in context, unambiguously urges a particular result in a City election.

If an expenditure is made to or at the behest of a candidate or a committee, it is not an independent expenditure. (SDMC §27.2903)

BECOMING AN INDEPENDENT EXPENDITURE COMMITTEE

When your independent expenditures total \$1,000 or more in a calendar year, you become a "committee" under SDMC §27.2903, which references California Government Code §82013(b). Qualification lasts until the end of the calendar year.

TYPES OF COMMITTEES AND THEIR FILING OBLIGATIONS

To determine what, where and when you must file, you must first determine the type of committee you are.

1) You are either a “recipient” or a “non-recipient” committee.

RECIPIENT COMMITTEES

If you receive contributions to make your independent expenditures, you are a “recipient” committee, and will file the necessary campaign statements, including a statement of organization on the Fair Political Practices Commission’s (FPPC) Form 410; and periodic disclosure on FPPC Form 450 or Form 460. You will find a great deal of helpful information in the FPPC’s “Information Manual C: Campaign Provisions of the Political Reform Act for General Purpose Recipient Committees,” which is available from the City Clerk’s Office.

Also, if you are a recipient committee and will be making independent expenditures related to candidate races in the City of San Diego, you will need to know about contribution limits, covered in a separate section of this booklet.

NON-RECIPIENT COMMITTEES

If you do not receive contributions to make your independent expenditures, you are a “non-recipient” committee, and will file the necessary campaign statements on the Fair Political Practices Commission’s (FPPC) Form 461. You will find a great deal of helpful information in the FPPC’s “Information Manual E: Campaign Provisions of the Political Reform Act for Major Donor Committees and Independent Expenditure Committees,” which is available from the City Clerk’s Office.

2) You are either a “state,” “county” or “city” independent expenditure committee. This will determine where to file your campaign statements.

“STATE” COMMITTEES

If you make independent expenditures to support or oppose state candidates or state measures, or any number of candidates or measures being voted on in more than one county, you are a “state” committee. State committees file with the Secretary of State, Los Angeles County, San Francisco City/County, and the committee’s county of domicile.

Once you are qualified as a state committee, you must file a semi-annual campaign statement for each half of the year during which you make any independent expenditure. If you are a recipient committee, you may be required to file regular pre-election statements.

“COUNTY” COMMITTEES

If you make independent expenditures to support or oppose candidates or measures being voted on in a single county election, or in any number of jurisdictions wholly within a single county, then you are a “county” committee. County committees file with the county in which the committee is active, and with the committee’s county of domicile.

Once you are qualified as a county committee, you must file a semi-annual campaign statement for each half of the year during which you make any independent expenditure. If you are a recipient committee, you may be required to file regular pre-election statements.

If you begin as a county committee, and later during the calendar year qualify as another type of committee, you must continue to file copies of your campaign statements in the original county and in the other locations where you are required to file, until the end of the calendar year.

“CITY” COMMITTEES

If you make independent expenditures to support or oppose candidates or measures being voted on in a single city, you are a “city” committee. City committees file with the City Clerk.

Once you are qualified as a city committee, you must file a semi-annual statement for each half of the year during which you make any independent expenditures.

Additionally, you may be required to file pre-election statements, during the six-month period in which the city election is held, if you make contributions or independent expenditures that total \$500 or more during the period the statement covers, or if you are a recipient committee.

If you begin as a city committee, and later during the calendar year qualify as another type of committee, you must continue to file copies of your campaign statements in the original city and in the other locations where you are required to file, until the end of the calendar year.

OTHER FILING OBLIGATIONS

SUPPLEMENTAL INDEPENDENT EXPENDITURE REPORTS

If you make independent expenditures of \$1,000 or more in a calendar year to support or oppose a candidate, a measure, or the qualification of a measure, you must file an FPPC Form 465. A separate Form 465 must be filed for each candidate or measure the independent expenditure supported or opposed. Form 465 must be filed at the same times and with *each* filing officer with whom the candidate supported or opposed by the independent expenditure, or a committee primarily formed to support or oppose the measure, is regularly required to file campaign statements. See the form for more details.

NOTE: Information disclosed on Form 465 must also be disclosed on your regular campaign statement.

“LATE” INDEPENDENT EXPENDITURE REPORTS

A late independent expenditure totals \$1,000 or more; supports or opposes a single candidate or measure; and is made during the 16 days immediately preceding the election in which the candidate or measure supported or opposed is to be voted on.

If you make such an expenditure, you must file a Late Independent Expenditure Report within 24 hours of the time the expenditure is made. File by telegram, guaranteed overnight delivery service, personal delivery, or fax. You may *not* use regular mail for this filing. Send your report to the same jurisdiction where the candidate supported or opposed, or the committee primarily formed to support or oppose the measure, is regularly required to file.

Your report must include your committee's full name and street address; the name, office and district of the candidate supported or opposed, or the number or letter of the measure and the jurisdiction of the election in which the measure is to be voted on; and the amount, date, and description of the late independent expenditure. You may use, but are not required to use, FPPC Form 496, available from the City Clerk's Office.

If you are a recipient committee, you must also disclose the name, address, occupation and employer of each source of contributions not previously reported. (CA Govt Code §84204)

You can determine whether a communication that expressly advocates the election or defeat of two or more candidates/measures is a late independent expenditure by dividing the total cost of the communication by the number of candidates/measures supported or opposed. If there are two or more candidates/measures supported or opposed, but they are not featured equally, use a reasonable apportionment of the cost to determine if the communication is a late independent expenditure.

NOTE: The same information must be reported on your next regular campaign statement. Also, you are required to file Form 465, Supplemental Independent Expenditure Report, when you report a late independent expenditure.

CONTRIBUTION LIMITS MAY APPLY

Some jurisdictions have local ordinances which impose contribution limits. The City of San Diego is one such jurisdiction, and limits contributions in support of or opposition to a *candidate* to \$250 for any single election. Under the sanctions of SDMC §27.2941, it is unlawful for a committee--including one that makes independent expenditures--which is supporting or opposing a candidate to solicit or accept from any person a contribution which will cause the total amount contributed by that person in support of or opposition to a candidate to exceed the limit for any single election.

Under the sanctions of SDMC §27.2947, it is *also* unlawful for a committee that makes independent expenditures to accept a contribution from anyone other than an individual. That is, contributions from organizations are generally prohibited. However, a committee

may accept a contribution from any person, including an organization, if the committee is organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the committee pursues no other purpose.

IDENTIFICATION REQUIREMENTS

If you are a recipient committee and filed a Statement of Organization (FPPC Form 410), the Secretary of State's office will have assigned you an identification number. You are required to report this number on all campaign disclosure forms. You may, but are not required to, include the number on your checks, mass mailings, political advertisements, letterhead, door hangers, bumper stickers, billboards or any other means of advertisement.

Depending upon the kind of independent expenditure you make, you may be required to identify your committee in some way, on the communication itself.

MASS MAILINGS

A "mass mailing" is over 200 substantially similar pieces of mail, but is not a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry (CA Gov. Code §82041.5) Your committee may not send a mass mailing unless the committee's name, street address (or PO box, if it's on file with the Secretary of State's Office), and city are shown on the outside of each piece of mail in the mass mailing. See CA Gov. Code §84305 for more information about this requirement, including print size and type style. If you're working with another committee, the same information must be included on at least one of the inserts included within each piece of mail.

NEWSPAPER ADVERTISEMENTS

Any paid political advertisement published for purposes of supporting or defeating any person who has filed for an elective state or local office, and which is contained in or distributed with a newspaper, must include the words "Paid Political Advertisement." See CA Elections Code §20008 for more information about this requirement, including print size and type style.

MISCELLANEOUS COMMUNICATIONS

In the City of San Diego, there is no requirement that you identify your committee on newspaper ads, yard signs, or other types of campaign literature other than mass mailings.

However, SDMC §27.2951 has certain requirements for persons or organizations not controlled by a candidate or committee, but who make independent expenditures for or against a candidate or committee. These persons or organizations are required to indicate clearly on any material published, displayed or broadcast that the material was *not* authorized by a candidate or committee.